

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DRUMMOND DEVELOPMENT, LLC)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:21-cv-06937
)	Hon. Robert W. Gettleman
FAIRCHILD US, LLC, a South Carolina)	Magistrate – Hon. Jeffrey
limited liability company,)	Cummings
)	
Defendant.)	

**PLAINTIFF, DRUMMOND DEVELOPMENT, LLC'S MOTION FOR
SANCTIONS PURSUANT TO FRCVP 37(b)(2)(A)**

COMES NOW the Plaintiff, Drummond Development, LLC (“Drummond”), by and through its attorneys, Law Office of Barry I. Mortge, and states the following in support of its Motion for Sanctions against Defendant, Fairchild US, LLC (“Fairchild”) pursuant to FRCVP(b)(2)(A):

1. This matter has come before this court on several occasions as a result of the failure of Fairchild to produce documents in response to discovery requests made by Drummond and as ordered by this court.
 1. This court has previously considered Fairchild’s Motions for Extension of Time.
 2. As noted previously, on January 25, 2023, Austermuehle provided Defendant’s Answers to Interrogatories and a link to the document production.
3. Mortge logged into the link and saw that some documents were there. Austermuehle stated that they were still loading.

4. On January 26, 2023, Mortge attempted to open the link to the documents and was not given access.

5. In its original motion for extension, counsel for Fairchild requested additional time, which was unopposed

6. On February 9, 2023, Fairchild requested, and was granted, on February 13, 2023, an additional extension to February 17, 2023 due to a family emergency.

7. On February 21, 2023, Fairchild filed another motion for extension of time.

8. The stated reason for this additional extension, the unavailability of Karen Kahn to review the document production at this date does not comport with the attempted production on January 25, 2023 where it was purported that the documents were available and were being produced that date.

9. On February 22, 2023, this court granted Fairchild another extension until February 23, 2023 and stated that this is a “[f]inal extension.

10. Fairchild has still not complied with either the document production or the court’s orders.

11. The reasons for the requests have constantly shifted from the original technological issues to other reasons, none of which are related.

12. In addition to Mr. Austermuehle, there are additional attorneys of record in this matter and there is no reason why the deadlines, including those by the court, cannot be met.

13. Undersigned counsel has not received any communication from counsel for Fairchild regarding compliance.

14. Under FRCVP 37(b)(2)(A), this court may enter sanctions against Fairchild for failing to comply with the court order in this matter.

15. Sanctions include taking the facts of Drummond's complaint as established; barring Fairchild from presenting evidence on its claims or defenses; striking its pleadings and other relief.

16. In addition, under FRCVP 37(b)(2)(C), Drummond is entitled to reasonable attorneys' fees incurred caused by Fairchild's failure to complete discovery and comply with this court's order.

WHEREFORE, Plaintiff, Drummond Development, LLC respectfully requests that this court grant its motion for sanctions, enter appropriate sanctions, award it attorneys' fees, and for any further relief deemed necessary and just.

Respectfully submitted,

DRUMMOND DEVELOPMENT, LLC

By: /s/ Barry I. Mortge
Barry I. Mortge,
Attorney for Plaintiff

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VERIFICATION

Under penalties as provided by law, the undersigned certifies that the statements set forth in this instrument are true and correct.



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CERTIFICATE OF SERVICE

I, Barry I, Mortge, hereby certify that a true and correct copy of the foregoing has been served via electronic mail, on February 24, 2023 to:

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